

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

THE ESTATE OF ERIC A.) CIVIL NO. CV04 00428 DAE-LEK
 POWELL, THROUGH PERSONAL)
 REPRESENTATIVE MARY K.)
 POWELL; THE ESTATE OF)
 JAMES D. LAUGHLIN, THROUGH)
 PERSONAL REPRESENTATIVE)
 RAGINAE C. LAUGHLIN; MARY)
 K. POWELL, INDIVIDUALLY;)
 RAGINAE C. LAUGHLIN,)
 INDIVIDUALLY; CHLOE)
 LAUGHLIN, A MINOR, THROUGH)
 HER NEXT FRIEND, RAGINAE)
 C. LAUGHLIN,)
 Plaintiffs,)
 vs.)
 CITY AND COUNTY OF)
 HONOLULU,)
 Defendant.)

DEPOSITION OF MARY K. POWELL

Taken on behalf of Defendant at the Offices of
 Corporation Counsel, City and County of Honolulu,
 Honolulu Hale (City Hall), 530 South King Street,
 Room 110, Honolulu, Hawaii, commencing at 9:30
 a.m., on Thursday, April 28, 2005, pursuant to
 Federal Rules of Civil Procedure.

BEFORE: PHYLLIS K. KUSHINER, CSR NO. 147
 Notary Public, State of Hawaii

EXHIBIT "7"

vs. CITY AND COUNTY OF HONOLULU

MARY K. POWELL
April 28, 2005

PAGE 53

53

Q. ...tion? Were you in the ambulance, or were
already at Queen's?
A. I was at Queen's.

Q. And this is after the doctor had spoke to
you about Eric?

A. It was, I believe it was before the doctor
had come out from being with Eric.

Q. Were you ever informed by any medical
professional as to whether or not Eric or Jim ever
regained consciousness?

A. No.

Q. After you went in to see Eric, what did you
do next?

A. I called my mom, and then I called Eric's
mom. And then I talked to the social worker, and
I met with another woman because Eric was an organ
donor. So I had to pretty much give my permission
for -- they have a whole checklist of things.

Q. And you gave your permission?

A. I gave my permission.

Q. Did you know that that was Eric's wish, to
be an organ donor?

A. Yes.

Q. Was that something you had discussed with
him?

PAGE 55

55

Q. I am going to have to ask you additional
questions of stuff that we have already gone over
so I can get a more detailed time line and a
better description of locations and personnel that
we have been speaking of in general categories.

A. Okay.

Q. During the hour or so that Eric and Jim
were swimming or snorkeling on their own, were you
able to notice whether or not there was a change
in any of the ocean conditions?

A. No.

Q. Just for clarity, are you saying that you
did not observe any change or that there was no
change?

A. I did not observe any change.

Q. Did you ever -- I'm sorry. Strike that.
The man with the bullhorn, can you describe
what he looked like?

A. I think he had one of those safari hats on.
It was like a khaki hat, I think. I think he had
a beard. He was older, in his fifties maybe.

Q. Other than the hat, did you notice any
other items of clothing he was wearing?

A. Not really.

Q. Do you know what ethnic background he was?

PAGE 54

54

A. Yes. We had renewed our licenses together,
and you can check whether or not you want to be an
organ donor. And we had discussed it.

Q. Off the record for a second.
(Discussion was held
off the record.)

MR. MAYESHIRO: Back on the record.

Q. Do you know where the organs went from your
husband?

A. Well, he, he had -- he was deceased so they
couldn't take major organs at that point, but we
had donated his eyes and his, his veins and bone
marrow. We have had one recipient write us. She
was a woman in California, a grandmother who had
gotten his --

Q. Corneas?

A. Corneas. And she had written us a great
letter that she was now able to see her
grandchildren clearly.

Q. About how long after this incident did you
receive that letter?

A. Probably a year later.

Q. Did you ever hear from any of the other
recipients?

A. No.

PAGE 56

56

Caucasian, Asian?

A. He was Caucasian.

Q. And did you ever talk to the man who was
riding the jet ski?

A. No.

Q. Do you recall what that person looked like?

A. No.

Q. Now my understanding based on what you have
said so far is that about an hour had gone by
where Eric and Jim were swimming, and then in a
general sense, you noticed something was going on,
correct?

A. Well, I started to look at my watch and
feel they were out too long.

Q. Did they indicate to you how long they
intended to go snorkeling beyond the reef?

A. No. No.

Q. While the three of you were eating lunch,
was there any discussion as to what time you would
be leaving the park?

A. No.

Q. Do you remember what the three of you were
talking about while you ate lunch?

A. Well, we had, we had asked the information
desk how to get out there, and we were talking

et al., vs. CITY AND COUNTY OF HONOLULU

MARY K. POWELL
April 28, 2005

PAGE 57

PAGE 59

59

about where the pole line was and where the buoys were. We were -- Jim and I were showing Eric, pointing. I don't remember anything else conversation-wise over lunch.

Q. Did the person at the information desk tell you where to swim?

A. What do you mean? I'm sorry.

Q. Well, you mentioned that somebody at the information desk was I guess explaining to the three of you how to get beyond the reef; is that correct?

A. No, actually it was just Jim and I. We were on our way up to get sandwiches, and we stopped there. And we had asked "How do you get out past this coral reef," and she had pointed to where the buoys were and said that that is a pull line. And that was it. We walked up to get the sandwiches because they are at the top there, and we actually looked for the buoys halfway up.

Q. Where was Eric when you and Jim were talking to the information desk?

A. Laying out on the towel.

Q. And other than this person in the information desk, did you talk to any other personnel at Hanauma Bay --

1 what you have mentioned?

2 A. She seemed young.

3 Q. And did she say anything else?

4 A. No.

5 Q. And did you say anything to her after she I guess explained the pull line in?

6 A. No.

7 Q. Have you ever heard the term Witches' Brew?

8 A. No.

9 MR. MATTOCH: I'm sorry. Counsel, did you say "Have you ever heard the term"?

10 MR. MAYESHIRO: Yes.

11 MR. MATTOCH: Or are you saying "Had you ever heard the term"?

12 MR. MAYESHIRO: Have.

13 THE WITNESS: Have? Well, I know what it is now, yes.

14 Q. (By Mr. Mayeshiro) What is your understanding of what Witches' Brew refers to?

15 A. An area in Hanauma Bay.

16 Q. And is that area significant in your mind for any reason?

17 A. Prior to the events?

18 Q. Yes.

19 A. I had -- prior, no.

PAGE 58

58

1 A. No.

2 Q. -- other than the people that we have mentioned so far?

3 A. No.

4 Q. The person at the information desk, can you tell me what that person looked like?

5 A. She had looked to be -- she was Caucasian. She looked to be 18 or 19. She, her hair was in a ponytail.

6 Q. Do you remember what color her hair was?

7 A. I think it was sandy brown.

8 Q. And do you recall the length?

9 A. It was in a ponytail so somewhat long, I guess.

10 Q. Height?

11 A. Probably five five.

12 Q. Build?

13 A. Medium.

14 Q. Do you know if the person had on any particular clothing?

15 A. Not that I recall.

16 Q. Glasses?

17 A. No.

18 Q. Is there anything that you can think about this woman that stands out in your mind other than

PAGE 60

60

1 Q. But now?

2 A. Today?

3 Q. Yes.

4 A. Well, the name in itself doesn't confer -- I'm sorry. Can you start over on that question?

5 Q. Sure. What significance, if any -- does Witches' Brew, either the name or the location, have any significance in your mind?

6 MR. MATTOCH: As she sits here today?

7 MR. MAYESHIRO: As she sits here today.

8 THE WITNESS: It is where my husband and brother died.

9 Q. (By Mr. Mayeshiro) And prior to July 19, 2002, you had not heard this term or location before?

10 A. No, I had not.

11 Q. When did you first hear of this location?

12 A. After they died.

13 Q. Do you know approximately how long after?

14 A. In the newspaper, I think, maybe. I can't recall exactly when after I heard that term.

15 Q. When you say newspaper, do you mean the newspaper here in Hawaii?

16 A. Yes.

17 Q. How long after July 19th did you stay in